THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 16840 OF 2007

Dated 9th August 2007

Between:

Jyothi Wines, Nowduri, rep.by its
Licensee Veeravalli Suresh Kumar,
and another.

…petitioners

and

The Superintending Engineer,
Roads & Buildings Department,
Eluru & others

…Respondents

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WRIT PETITION No. 16840 OF 2007

O R D E R:

The petitioners are licensees in Form A-4, under the Prohibition and Excise Act. Their licences are valid till 2008. Both of them are running their respective shops in the leased premises in Nowduru village of Veeravasaram Mandal, West Godavari District.

Mr.K.Rayapa Raju and Vasarala Satyavathi filed a suit alleging that unauthorized constructions were made in front of their respective houses on the road margin in R.S.No.76 of Nowduru village, Veeravasaram Mandal, at KM.4/6 of Veeravasaram to Penumantra road. The suit was decreed with a direction to the defendants therein, to remove the unauthorized structures. Complaining that the decree was not implemented, they filed W.P.No.13198 of 2007. This court passed an order, dated 9.6.2007, directing the authorities of Roads and Buildings Department, to remove the unauthorized constructions

on the said road, if necessary, by taking the help of Revenue and Police officials.

The shops established by the petitioners are said to be in the unauthorized constructions, that were directed to be removed. The petitioners complain that the respondents herein are trying to forcibly evict them. They contend that unless they are permitted by the Commissioner of Excise, to shift their shops to different premises, they cannot undertake business from a different premises. It is also alleged that they are not parties to any proceedings leading to eviction.

Heard the learned counsel for the petitioners and learned Government Pleader for Roads and Buildings.

Since the matter involved the shifting of the shops of petitioners, learned Government Pleader for Prohibition & Excise was also heard.

As of now, the petitioners are running their shops in leased premises, for which licences were also granted. It ultimately emerged that the said premises are unauthorized and constructed on the road margins. The respective owners have suffered a decree in the Civil Court, and this court directed the removal of the structures. The only protection that can be accorded to the petitioners, in terms of the orders of this court in W.P.No.13198 of 2007, is that they must be given time of one week.

It is true that the petitioners would face some difficulty, not only in choosing the alternate premises, but also in obtaining necessary permission from the Commissioner of Excise. However, having regard to the special circumstances, the petitioners can be directed to shift their shops to new premises, by simultaneously submitting applications for permission, and they can be permitted to run the shops, till the applications seeking permission to shift the shops, are

disposed of.

Hence, the writ petition is disposed of, directing that;

a) the petitioners shall shift their shops to different premises, which shall be in accordance with Rule 27 of the A.P. Excise (Lease of Right of Selling by shop and Conditions of Licence) Rules 2005, and vacate the existing ones, within a period of one week from today.

b) Within this time, the petitioners shall also submit applications to the competent authority under the relevant provisions, seeking permission to shift the shops, by paying requisite fee.

c) The running of the shops from the newly selected premises by the petitioners, till the disposal of the applications for shifting, shall not be treated as illegal, and the same shall be subject to the orders that may be passed by the competent authority, on the applications for shifting.

The Registry shall mark a copy of this order to the Prohibition and Excise Superintendent, Bhimavaram, West Godavari District, and Commissioner, Prohibition and Excise, Government of Andhra Pradesh, Hyderabad.

9th August 2007

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